

**United States Bankruptcy Court
Eastern District of Pennsylvania**

In re CHERYL L. FILLION

Debtor(s)

Case No. 16-13992/ELF
Chapter 13

**DEBTOR'S MOTION OBJECTING TO
RESPONSE TO NOTICE OF FINAL CURE PAYMENT OF
M & T BANK**

Debtor, Cheryl L. Fillion files Objections to the Response of Notice of Final Cure Payment of M & T Bank as follows:

1. M & T Bank, Debtor's mortgage company filed a Notice of Final Cure Payment which states that debtor is due for her post-petition mortgage payments for the months of March/2021 through May/2021.
2. Debtor has been making all of her post-petition mortgage payments throughout her bankruptcy case with the exception of her mortgage payments for January/2018 through March/2018. As a result, a Stipulation was entered into with M & T Bank to cure the missed mortgage payments over a six month period beginning with April/2018 and continuing through September/2018. Debtor made all of her payments under the aforementioned Stipulation which is attached hereto and marked Exhibit "A".
3. Debtor has made all of her ongoing mortgage payments subsequent to completing the aforementioned Stipulation in September/2018 through to May/2021.
4. Debtor made her mortgage payments for the disputed three month period of March/2021 to May/2021, but they were applied incorrectly by M & T Bank.
5. Debtor paid her March/2021 mortgage payment according to the payment history attached to the Response to Notice of Final Cure Payment in the amount of \$745.00 on March 1, 2021, but it was incorrectly credited to her October/2020 payment. A copy of debtor's proof of payment is attached hereto and marked Exhibit "B".

Debtor made her April/2021 mortgage payment on April 2, 2021 according to the M & T Bank payment history in the amount of \$1,395.00 which covered her April mortgage payment and \$650.00 in post-petition attorney's fees that were assessed by the mortgage company. M & T Bank incorrectly applied the \$745.00 payment to November/2020. It appears that M & T Bank then placed the additional \$650.00 in suspense and applied it to debtor's December/2020 mortgage payment. A copy of debtor's proof of payment is attached hereto and marked Exhibit "C".

Debtor then made her May/2021 mortgage payment in the amount of \$745.00 which according to M & T Bank's payment history was received on May 6, 2021, but was incorrectly applied to her payment for the month of February/2021. A copy of debtor's proof of payment is attached hereto and marked Exhibit "D".

6. Debtor received a mortgage statement from M & T Bank dated February 17, 2021 which states that she was due for post-petition payment of April 1, 2021. As a result, this statement is proof that the March payment was already received and applied by M & T Bank. A copy of the M & T bank statement is attached hereto and marked Exhibit "E".

WHEREFORE, Debtor, Cheryl L. Fillion request this Honorable Court to make a determination that Debtor was current on her post-petition mortgage payments at the completion of her Chapter 13 Plan.

Dated: June 1, 2021

/s/BRADLY E. ALLEN, ESQUIRE

Bradly E. Allen, Attorney for Debtor, Cheryl L. Fillion

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

Cheryl L. Fillion a/k/a Cheryl L. Schmidt <u>Debtor</u> M&T Bank vs. Cheryl L. Fillion a/k/a Cheryl L. Schmidt <u>Debtor</u> Michael C. Fillion <u>Co-Debtor</u> William C. Miller, Esq. <u>Trustee</u>	CHAPTER 13 NO. 16-13992 ELF 11 U.S.C. Sections 362 and 1301
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STIPULATION

AND NOW, it is hereby stipulated and agreed by and between the undersigned as follows:

1. The post-petition arrearage on the mortgage held by the Movant on the Debtor's residence is \$3,233.20, which breaks down as follows;

Post-Petition Payments:	January 1, 2018 to March 1, 2018 at \$734.08/month
Suspense Balance:	\$0.04
Fees & Costs Relating to Motion:	\$1,031.00
Total Post-Petition Arrears	\$3,233.20

2. The Debtor shall cure said arrearages in the following manner:

a). Within seven (7) days of the filing of this Stipulation, Debtor shall make a down payment in the amount of \$2,202.20.

3. Beginning on April 1, 2018 and continuing through September 1, 2018, the Debtor shall pay to Movant the present regular monthly mortgage payment of \$734.08 (or as adjusted pursuant to the terms of the mortgage) on or before the first (1st) day of each month (with late charges being assessed after the 15th of the month), plus an installment payment of \$171.83 from April 1, 2018 to August 1, 2018 and \$171.85 on September 1, 2018 towards the fees and costs relating to the Motion for Relief on or before the last day of each month to the address below;

M&T Bank
P.O. Box 62182
Baltimore, Maryland 21264-2182

EXHIBIT "A"

4. Should Debtor provide sufficient proof of payments made, but not credited (front & back copies of cancelled checks and/or money orders), Movant shall adjust the account accordingly.

5. In the event the payments under Section 3 above are not tendered pursuant to the terms of this stipulation, Movant shall notify Debtor and Debtor's attorney of the default in writing and the Debtor may cure said default within FIFTEEN (15) days of the date of said notice. If Debtor should fail to cure the default within fifteen (15) days, Movant may file a Certification of Default with the Court and the Court shall enter an Order granting Movant immediate relief from the automatic stay and waiving the stay provided by Bankruptcy Rule 4001(a)(3).

6. If the case is converted to Chapter 7, Movant shall file a Certification of Default with the Court and the Court shall enter an order granting Movant relief from the automatic stay.

7. If the instant bankruptcy is terminated by either dismissal or discharge, this agreement shall be null and void, and is not binding upon the parties.

8. The provisions of this stipulation do not constitute a waiver by Movant of its right to seek reimbursement of any amounts not included in this stipulation, including fees and costs, due under the terms of the mortgage and applicable law.

9. The parties agree that a facsimile signature shall be considered an original signature.

Date: March 2, 2018

By: /s/ Kevin G. McDonald, Esquire
Kevin G. McDonald, Esquire
Attorney for Movant/Creditor

Date: 5/3/18

[Signature]
Bradly E. Allen, Esquire
Attorney for Debtor

[Signature]
CHERYL L. FILLION

Date: 5/15/18

[Signature]
William C. Miller
Chapter 13 Trustee

NO OBJECTION
*without prejudice to any
trustee rights or remedies.

Approved by the Court this _____ day of _____, 2018. However, the court retains discretion regarding entry of any further order.

Bankruptcy Judge
Eric L. Frank

----- Forwarded Message -----

From: "noreply@speedpay.com" <noreply@speedpay.com>
To: "cherylkins0920@aim.com" <cherylkins0920@aim.com>
Sent: Mon, Mar 1, 2021 at 5:28 PM
Subject: M&T Bank Payment Confirmation

RE: Loan No: [REDACTED] 2082

Dear MICHAEL C FILLION:

Thank you for the payment authorized via M&T Bank's telephone payment service. This email confirms a one-time electronic payment was verbally authorized on 03/01/2021 for the benefit of your mortgage loan referenced above.

Details regarding the transaction are as follows:

This Payment Scheduled on: 03/01/2021

Payment Amount: \$745.00

Bank Account: *****

Confirmation Number: 4565822

It is expected that within 5 business days from the scheduled date this payment will be automatically withdrawn from the bank account referenced above.

You have different options for making payments, including;

- Web Payment: www.onlinebanking.mtb.com
- Mailing a Payment
- M&T Bank Branch
- By Phone

If you have any questions, please call 800-724-2224 to speak to an M&T Bank representative during our normal business hours, Monday-Friday 8:30am - 9:00pm, EST. We appreciate the opportunity to serve you.

Sincerely,

M&T Bank

Please note: This email message was sent from a notification-only address that cannot accept incoming email. Please do not reply to this message.

<https://mail.aol.com/webmail-std/en-us/PrintMessage>

EXHIBIT "B"

Sent from the all new AOL app for Android

----- Forwarded Message -----

From: "noreply@speedpay.com" <noreply@speedpay.com>
To: "cherylkins0920@aim.com" <cherylkins0920@aim.com>
Sent: Fri, Apr 2, 2021 at 11:48 AM
Subject: M&T Bank Payment Confirmation

RE: Loan No: 2082

Dear MICHAEL C FILLION:

Thank you for the payment authorized via M&T Bank's telephone payment service. This email confirms a one-time electronic payment was verbally authorized on 04/02/2021 for the benefit of your mortgage loan referenced above.

Details regarding the transaction are as follows:

This Payment Scheduled on: 04/02/2021

Payment Amount: \$1395.00

Bank Account: *****

Confirmation Number: 4628572

It is expected that within 5 business days from the scheduled date this payment will be automatically withdrawn from the bank account referenced above.

You have different options for making payments, including;

- Web Payment: www.onlinebanking.mtb.com
- Mailing a Payment
- M&T Bank Branch
- By Phone

If you have any questions, please call 800-724-2224 to speak to an M&T Bank representative during our normal business hours, Monday-Friday 8:30am - 9:00pm, EST. We appreciate the opportunity to serve you.

Sincerely,

M&T Bank

----- Forwarded Message -----

From: "noreply@speedpay.com" <noreply@speedpay.com>
To: "cherylkins0920@aim.com" <cherylkins0920@aim.com>
Sent: Thu, May 6, 2021 at 2:06 PM
Subject: M&T Bank Payment Confirmation

RE: Loan No: 2082

Dear MICHAEL C FILLION:

Thank you for the payment authorized via M&T Bank's telephone payment service. This email confirms a one-time electronic payment was verbally authorized on 05/06/2021 for the benefit of your mortgage loan referenced above.

Details regarding the transaction are as follows:

This Payment Scheduled on: 05/06/2021

Payment Amount: \$745.00

Bank Account: *****

Confirmation Number: 4690649

It is expected that within 5 business days from the scheduled date this payment will be automatically withdrawn from the bank account referenced above.

You have different options for making payments, including;

- Web Payment: www.onlinebanking.mtb.com
- Mailing a Payment
- M&T Bank Branch
- By Phone

If you have any questions, please call 800-724-2224 to speak to an M&T Bank representative during our normal business hours, Monday-Friday 8:30am - 9:00pm, EST. We appreciate the opportunity to serve you.

Sincerely,

M&T Bank

Please note: This email message was sent from a notification-only address that cannot accept incoming email. Please do not reply to this message.

<https://mail.aol.com/wehmail-std/en-us/PrintMessage>

EXHIBIT "D"

Representation Of Printed Document
M&T Bank
 RETURN SERVICE ONLY
 Please do not send mail to this address
 P.O. Box 619063
 Dallas, TX 75261-9063




9-750-89357-0000036-001-010-010-000-000

MICHAEL C FILLION
 CHERYL FILLION
 3511 DECATUR ST
 PHILADELPHIA PA 19136-3008

Statement Date: 02/17/21

Account Number: 2082
 Post-Petition Payment Date: 04/01/21
 Post-Petition Payment Amount: \$1,395.00

Contact Us

 General Customer Service: 1-800-724-2224
 Automated Service: 7:30am - 9:00pm EST Mon - Fri
 8:00am - 5:00pm EST Sat
 Representatives Available: 8:30am - 7:00pm EST Mon - Fri
 Fax Payoff Requests: 1-866-409-2653
 Fax All Other Customer Service Requests: 1-866-409-4642
 Property Tax Questions: 1-866-406-0949
 Flood and Homeowners Insurance Questions: 1-888-882-1847
 Correspondence Address:
 PO BOX 1288
 BUFFALO, NY 14240-1288
 www.mtb.com

Bankruptcy Message

Our records show that you are a debtor in bankruptcy. We are sending this statement to you for informational and compliance purposes only. It is not an attempt to collect a debt against you.

If your bankruptcy plan required you to send your regular monthly mortgage payment to the Trustee, you should pay the Trustee instead of us. Please contact your attorney or the Trustee if you have questions.

If you want to stop receiving statements, write to us at:
 M&T Bank
 Attn: Customer Asset Management
 P.O. Box 5155
 Buffalo, NY 14240-5155

Account Information

Property Address: 3511 DECATUR STREET
 PHILADELPHIA PA 19138
 Outstanding Principal: \$38,776.58
 Interest Rate: 6.500%

Explanation of Payment Amount (Post-Petition Payment)

Principal	\$329.77
Interest	+\$197.80
Escrow (tax/insurance)	+\$217.43
Regular Monthly Payment	\$745.00
Total Fees and Charges	+\$650.00
Total Payment Amount	\$1,395.00

The payment amount does not include any amount that was past due before you filed for bankruptcy and does not include any amounts that may be due under your bankruptcy plan.

This billing statement does not reflect any conditional orders approved through the court.

Transaction Activity

Transaction Date	Description	Total Received	Principal	Interest	Escrow	Optional Products	Subsidy	Unapplied Funds	Fees
02/03/21	Partial Payment Received	\$745.00						\$745.00	
02/03/21	Payment		\$315.82	\$211.75	\$215.35				-\$742.92

Past Payments Breakdown

	Paid Since Last Statement	Paid Year-to-Date
Principal	\$315.82	\$629.94
Interest	\$211.75	\$425.20
Escrow (Taxes & Insurance)	\$215.35	\$430.70
Fees	\$0.00	\$0.00
Partial Payment (Unapplied)	\$2.08	\$748.27
Total	\$745.00	\$2,234.11

Summary of amounts Past Due Before Bankruptcy Filing (Pre-Petition Arrearage)

Paid Since Last Statement	\$0.00
Total Paid During Bankruptcy	\$19,954.51
Current Balance	\$1,398.91

This box shows amounts that were past due when you filed for bankruptcy. It may also include other allowed amounts on your mortgage loan. These amounts may change pending the outcome of the filed proof of claim. The Trustee is sending us the payments shown here. These are separate from your monthly mortgage payment.

Important Messages

This statement may not show recent payments you sent to the Trustee that the Trustee has not yet forwarded to us. Please contact your attorney or the Trustee if you have questions.

NOFB

M&T Bank

Make check payable to M&T Bank.

M & T BANK
 PO BOX 62182
 BALTIMORE MD 21264-2182

2082
 MICHAEL C FILLION
 CHERYL FILLION

If your bankruptcy plan requires you to send your regular monthly mortgage payments to the Trustee, you should pay the Trustee instead of us. Please contact your attorney or the Trustee if you have questions.

PAYMENT AMOUNT

Post-Petition Payment Date	04/01/21
Post-Petition Payment Amount	\$1,395.00

Please designate how you want us to apply any additional funds.

Additional Principal	\$
Additional Escrow	\$
Unpaid Late Charges	\$
Other (Must specify)	\$
Total Amount Enclosed	\$

EXHIBIT "E"